
(2006) 12 AP CK 0013
In the Andhra Pradesh High Court
Case No : Writ Appeal No. 1325 of 2006

M. Saraswathi

APPELLANT

Vs

District Collector and Others

RESPONDENT

Date of Decision : 20-12-2006

Acts Referred:

Constitution of India, 1950 — Article 298
Land Acquisition Act, 1894 — Section 18, 4(1), 48(1)

Citation : (2007) 3 ALT 596

Hon'ble Judges : G.S. Singhvi, C.J.; C.V. Nagarjuna Reddy, J

Bench : Division Bench

Advocate : R. Raghunandan, for K.V. Ratna Rao, for the Appellant; G.P. for Revenue for Respondent Nos. 1 to 5, for the Respondent

Final Decision : Dismissed

Judgement

G.S. Singhvi, C.J.—This appeal is directed against order dated 1-12-2006 passed by the learned Single Judge, whereby he dismissed the writ petition filed by the appellant for quashing memo dated 9-11-2006 issued by Special Deputy Collector, Land Acquisition (Industries), Hyderabad (respondent No. 3).

2. The appellant claims to be a member of the joint family which owned land in Survey Nos. 220 and 221 of Kapra Village, Keesara Mandal, Ranga Reddy District, which was acquired by the State Government in 1966 for establishing Nuclear Fuel Complex. The possession of the land was taken over on 4-1-1967 and compensation was paid to the land owners. After 35 years, one of the share holders, namely, M. Rami Reddy succeeded in manipulating the State apparatus which resulted in issue of G.O.Ms. No. 375 dated 7-9-2002 u/s 4(1) of the Land Acquisition Act, 1894, whereby some land was released from acquisition. That decision of the Government generated lot of litigation. Shri Bhaskar Reddy filed Writ Petition No. 24641 of 2005 for issue of a mandamus to the respondents to release the land measuring Ac. 11.03 guntas comprised in Survey No. 220 and Ac. 8.31 guntas comprised in Survey No. 221 (total land measuring Ac. 19.34

guntas). The same was dismissed by the learned Single Judge vide his order dated 21-11-2005. The learned Single Judge relied on the judgments of this Court in Koppula Narasaiah and another Vs. Government of A.P. and others, and of the Supreme Court in Northern Indian Glass Industries Vs. Jaswant Singh and Others, and Govt. of A.P. and Another Vs. Syed Akbar, and held that the acquired land cannot be reconveyed to the owners merely because the same has not been utilized. For the sake of reference, the order passed by the learned Single Judge is reproduced below.

The petitioner claims that his family owned huge extent of land in S. Nos. 220 and 221 admeasuring about Acs. 20 in Kapra village. The land was acquired for Nuclear Fuel Complex (NFC) about four decades ago and petitioner received compensation for the land as enhanced by the civil court in a reference u/s 18 of the Land Acquisition Act, 1894 (for short, the Act). It appears, one Smt. Shyamala and sons occupied a part of the land belonging to NFC, which was not utilized by them. They also filed a suit for declaration of title. At that stage, according to the petitioner, the Government compromised the matter and withdrew the notification acquiring the land, which was in possession of M. Shyamala and others by issuing orders in G.O. Ms. No. 375, dt. 7-9-2002 and collected the market value from M. Shyamala and others. Seeking similar relief the petitioner made a representation in February, 2003 and September, 2003. These applications were rejected. Assailing the same, the petitioner filed the present writ petition, in effect, seeking an order directing the respondents to re-convey the land acquired in 1967.

It has been repeatedly held by this Court and the Supreme Court that un-utilized land acquired under the proceedings of the Act cannot be re-conveyed to the owners. It is also well-settled that unutilized land can be used for public purpose and in case the Government does not want to keep the land, the same has to be disposed of by conducting public auction See Koppula Narasaiah v. Government of Andhra Pradesh (1 supra), Northern Indian Glass Industries v. Jaswant Singh (2 supra) and Government of Andhra Pradesh v. Syed Akbar (3 supra)

Following the same, the writ petition is dismissed as the petitioner has no right to seek Writ of Mandamus.

3. W.A. No. 2335 of 2005 filed by Shri M. Bhaskar Reddy against the order the learned Single Judge was dismissed by the Division Bench, of which, one of us (the Chief Justice) was a member, vide its order dated 29-11-2005. Undeterred by reversals at two stages of legal proceedings, Shri M. Bhaskar Reddy approached the Supreme Court and filed petition for Special Leave to Appeal (Civil) No. 1470 of 2006, which was dismissed on 27-1-2006.

4. Writ Petition No. 18864 of 2006 filed by Shri M. Basanth Reddy for release of his share of land was dismissed by the learned Single Judge on 5-9-2006 and Writ Appeal No. 954 of 2006 filed by him was dismissed by the Division Bench. Petition for Special Leave to Appeal No. 2002 of 2006 filed by him was dismissed

by the Supreme Court on 11-12-2006.

5. After dismissal of various writ petitions, the appellant filed an application for correction of revenue entries under G.O.Ms. No. 375, dated 7-9-2002. Special Deputy Collector, Land Acquisition (Industries), Hyderabad dismissed her application. Last three paragraphs of that order read as under:

Aggrieved with the said G.O. Ms. No. 375, dated 7-9-2002, the W.P. No. 17191 of 2006, was filed before the Hon''ble High Court of A.P. by way of Public Interest Litigation. In the said Writ Petition, the Division Bench of the Hon''ble High Court, confirmed the said G.O. As such the issuance of said G.O. can be treated to be issued under Article 298 of the Constitution of India. Mere quoting the Section 48(1) in the said G.O. does not take away the powers of the Govt. for withdrawal of the lands in favour LRs of Ram Reddy i.e., M. Shyamala and sons.

Aggrieved by the above said G.O. Petitioner''s joint family members i.e., M. Umma Reddy and others made representations to the Government seeking to enure the benefit of G.O. Ms. 375, to all four branches of original owners of joint family members, since all are entitled for the subject lands, as the said G.O., was issued u/s 48(1) of the land Acquisition Act. But the Government in view of the peculiar facts and circumstances of the case, rejected the said request holding that in view of receiving the compensation petitioners have no right to claim the subject lands. The said rejection orders have been considered and up-held by the Hon''ble High Court in W.P. Nos. 24641/2005, 18864/2006 and W.A. Nos. 2335/2005, 954/2006 and the Hon''ble Supreme Court of India in SLP No. 1470/2006.

Therefore taking into consideration of the peculiar facts and circumstances of the case, except the LRs of Ram Reddy i.e., M. Shyamala and her sons, other four branches of original owners of joint family members have no right to claim over the subject lands. Exercising the powers u/s 48(1) after vesting does not divest the title to the original owners as stated by the Hon''ble Supreme Court, in the judgments, in AIR SC 1970 and AIR 1996 SCP 122 as such restoring the position prior to 4(1) notification does not arise. in various judgments reported in Netai Bag and Others Vs. The State of West Bengal and Others, , Haji T.M. Hassan Rawther Vs. Kerala Financial Corporation, it was held that Article 298 of the Constitution extends the power of the State to take appropriate decision in the interest of public. As such the Government has power to issue the above said G.O. in favour of M. Shyamala and sons. Therefore the present petition deserves no consideration and hence rejected.

6. The writ petition filed by the appellant was dismissed by the learned Single Judge on the premise that similar writ petitions have already been dismissed.

7. We have heard Shri R. Raghunandan, learned Counsel for the appellant. He fairly placed before the Court a chronology of the events leading to filing of Writ Petition No. 25091 of 2006 and also admitted that all the writ petitions and writ appeals filed by similarly situated persons seeking release of land which had

been acquired vide notification dated 1-12-1966 have been dismissed by this Court and the Special Leave Petitions filed against the orders of the Division Bench have been dismissed by the Supreme Court.

8. We appreciate the fairness exhibited by the learned Counsel.

9. A perusal of the list of events produced by Shri Raghunandan shows that the following writ petitions and appeals preferred by various persons whose land had been acquired vide notification dated 1-12-1966 were dismissed by Single and Division Benches and Special Leave Petitions filed against the judgments of this Court were dismissed by the Supreme Court:

1. Writ Petition No. 24641 of 2005.

2. Writ Appeal No. 2335 of 2005.

3. SLP No. 1470 of 2006.

4. Writ Petition No. 17191 of 2006.

5. SLP No. 18556 of 2006.

6. Writ Petition No. 18864 of 2006.

7. Writ Appeal No. 954 of 2006.

8. SLP No. 20002 of 2006.

9. Writ Petition No. 22310 of 2002. 10. Writ Petition No. 25091 of 2006.

10. In view of the above, we do not find any reason to take a different view and entertain the prayer made by the appellant.

11. In the result, the appeal is dismissed.

12. As a sequel to dismissal of the appeal, WAMP No. 2815 of 2006 filed by the appellant for interim relief is also dismissed.